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June 11, 2019

**VIA ELECTRONIC CASE FILING**

Hon. Colleen McMahon  
U. S. District Chief Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Brown, et al. v. Showtime Networks, Inc. et al.  
1:18-cv-11078-CM

Dear Hon. Chief Judge McMahon:

This firm represents Tracey Baker-Simmons, Wanda Shelley, B2 Entertainment LLC and Simmons Shelley Entertainment, LLC ("Simmons/Shelley Defendants"). This letter is to request (1) an adjournment of the June 21, 2019 initial conference; and (2) shall serve as a letter motion to amend the pleadings such that my clients can join in Showtime's pending motion to dismiss.

With respect to the adjournment of the June 21 conference, this request is on consent. I had not yet appeared in the action when the June 21 date was selected, and I have a vacation scheduled to Alaska from June 21- June 29, 2019. I request the conference be moved until after July 4, 2019 to accommodate all counsel.

**MOTION TO AMEND ANSWER**

As stated above, this office was not counsel in this matter when the Simmons/Shelley Defendants filed an answer to the Complaint. Since filing the answer, Defendants Showtime and BBC made a motion to dismiss the complaint per FRCP 12(b)(6) citing various constitutional defenses to the complaint. After reviewing the motion, it became apparent that these defenses apply similarly to the Simmons/Shelley Defendants as well. Accordingly, I am requesting that pursuant to FRCP 15, that my clients are permitted to file a motion to dismiss the complaint that tracks the arguments raised by Showtime.

I have asked for consent of my adversaries, and Plaintiff did not agree to allow me to make the motion on consent.

As the same issues I wish to raise on the motion are already *sub judice*, there is no prejudice in granting this request. As the Court is aware, FRCP 15(a)(2) permits leave to amend the pleadings with leave of the Court. The statute further provides that, "the Court should freely give leave when justice so requires".

In the instant action, the same issues that the Court is examining in the pending Showtime/BBC Motion are relevant to my clients. Accordingly, justice would be served to allow the Simmons/Shelley Defendants to join in the motion and have the same issues examined relative to Plaintiffs' claims against them.

Accordingly, it is respectfully requested that (1) the June 21, 2019 conference be adjourned on consent; and (2) that Defendants be permitted to amend their responsive pleading and move to dismiss.

Thank you for your attention to these applications.

Very truly yours,



Jason L. Abelow

JLA/sc

cc: All ECF Counsel